

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION**

NORMA SIPE,

Plaintiff,

v.

A&S TRANSPORTING, LLC

and

ERIC TEPP,

Defendants.

Civil Action No.: 3:20-cv-48

Circuit Court for the County of
Albermarle, Virginia
Case No. CL-20000592-00

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that Defendants A&S Transporting, LLC (“A&S Transporting”) and Eric Tepp (“Mr. Tepp”) (collectively, “Defendants”) respectfully file this Notice of Removal pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, to remove to the United States District Court for the Western District of Virginia an action initiated against them in the Circuit Court for the County of Albermarle. Removal of this action is based on the following:

1. On April 10, 2020, Plaintiff Norma Sipe filed a civil action against Defendants in the Circuit Court for the County of Albermarle, Virginia, case number CL-20000592-00 (hereinafter “State Court Action”). A true and accurate of the Complaint filed in the State Court Action is attached hereto as **Exhibit A** and is incorporated by reference.

2. The Complaint in the State Court Action asserts negligence claims against all Defendants arising from a motor vehicle accident. (Ex. A, Compl.)

3. On August 12, 2020, Defendants filed an Answer to the Complaint in the State Court Action. A true and correct copy of the Answer is attached hereto as **Exhibit B** and is

incorporated herein by reference.

4. A&S Transporting was served with process on July 23, 2020. Mr. Tepp has not been served. Thus, this Notice of Removal is timely because it is filed not more than thirty (30) days after any of the Defendants received a copy of the Complaint, through service or otherwise. 28 U.S.C. § 1446(b).

5. The Western District of Virginia, Charlottesville Division, is the federal district embracing Albemarle County, Virginia, where the State Court Action was originally filed. 28 U.S.C. § 127(b); W.D. Va. Local R. 2(a)(3). Thus, Defendants' Notice of Removal is properly filed in this District and Division. 28 U.S.C. § 1441(a).

BASIS FOR REMOVAL – DIVERSITY JURISDICTION

6. The State Court Action is removable under 28 U.S.C. § 1332(a). The Court has subject matter jurisdiction over the State Court Action because it is between citizens of different states and the amount in controversy exceeds \$75,000.00. 28 U.S.C. §1332(a).

7. Mr. Tepp is now, and was at the time of filing the Complaint, a citizen of the state of Tennessee.

8. A limited-liability company has the citizenship of each state where its members are citizens. Gen. Tech. Applications, Inc. v. Exro Ltd., 388 F.3d 114, 121 (4th Cir. 2004). For cases removed based on diversity jurisdiction, diversity is measured both when the state-court action is commenced, and when the state-court action is removed. Rowland v. Patterson, 882 F.2d 97, 99 (4th Cir. 1989) (en banc) (explaining that “diversity must have existed both at the time the action was originally commenced in state court and at the time of filing the petition for removal” (citing 14A Charles A. Wright et al., Federal Practice and Procedure § 3723, at 311–14 (1985))).

9. A&S Transporting is now, and was at the time of the filing of the Complaint, a citizen of New Jersey.¹ A&S Transporting has one member, an individual, and he is a citizen of New Jersey. Thus, A&S Transporting is a citizen of New Jersey.

10. Plaintiff is now, and was at the time of the filing of the Complaint, a citizen of Virginia. Ex. A, Compl. ¶ 2.

11. Plaintiff's Complaint requests judgment against all Defendants in the amount of \$350,000.00. (Ex. A, Compl. prayer for relief). Thus, the amount in controversy requirement specified in 28 U.S.C. § 1332(a) is satisfied.

12. If any question arises regarding the propriety of the removal of this action, Defendants respectfully request the opportunity to conduct jurisdictional discovery (if necessary), file a brief, and present oral argument to confirm that this Court has jurisdiction and that this case has been properly removed.

NOTICE

13. In accordance with 28 U.S.C. § 1446(d), prompt written notice of the filing of this Notice of Removal is being given to all other parties, and a true and correct copy of the Notice of Removal is being filed with the Circuit Court for the County of Albemarle, Virginia.

CONSENT

14. All Defendants consent to the removal of this action.

WHEREFORE, Mr. Tepp and A&S Transporting, by counsel, respectfully pray that the State Court Action be removed from the Circuit Court for the County of Albemarle, Virginia, to the United States District Court for the Western District of Virginia, in accordance with 28

¹ A&S Transporting ceased operations in February 2019. Plaintiff alleges that the subject motor vehicle accident occurred in December 2018. Ex. A, Compl. ¶ 6. A&S Transporting may defend Plaintiff's claim in its own name, especially given that the claim arose prior to A&S Transporting ceasing its operations. Va. Code § 13.1-1050.5.

U.S.C. § 1441, and for such further legal, equitable, or other relief that the Court deems just and proper.

This 19th Day of August, 2020.

Respectfully submitted,

**A&S TRANSPORTING, LLC and
ERIC TEPP**

By: /s/
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Counsel for Defendants

CERTIFICATION

I hereby certify that on this 19th day of August, 2020, I electronically filed the foregoing with the Clerk of the court using the CM/ECF system, which will send notification of such filing to all counsel of record.

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